

COMMISSION DIRECTIVE

ADMINISTRATIVE MATTERS	<input type="checkbox"/>	DATE	<u>November 28, 2007</u>
MOTOR CARRIER MATTERS	<input type="checkbox"/>	DOCKET NO.	<u>2007-205-E</u>
UTILITIES MATTERS	<input checked="" type="checkbox"/>		<u></u>

SUBJECT:

DOCKET NO. 2007-205-E - Mack A. Smith, Complainant/Petitioner v. Progress Energy Carolinas, Incorporated, Defendant/Respondent - Discuss with the Commission Letter Requesting the Complaint be Dismissed Filed by Len S. Anthony, Esquire, on Behalf of Progress Energy Carolinas, Incorporated.

COMMISSION ACTION:

In a letter dated November 6, 2007, a copy of which was sent to all parties, Progress has requested that we dismiss Mr. Smith's complaint for continued failure to comply with the Commission's Rules and Regulations governing pre-filed testimony. Progress asserts that Mr. Smith has now been afforded two opportunities to file valid pre-filed testimony, but that his filings consist of proposed exhibits without any associated testimony. Furthermore, Progress asserts that most or all of the proposed exhibits Mr. Smith seeks to use at the hearing would not be admissible without the testimony of other witnesses which Mr. Smith has not named. In light of the issues raised in Progress's request, I move that we postpone the merits hearing in this docket, and that in place of the merits hearing currently scheduled on December 12, 2007, we hear from the parties at that time as to whether this matter should be dismissed as requested based on failure to comply with the Commission's Rules and Regulations. We would render a decision as to dismissal after all parties have had a full and fair opportunity to present their arguments, and if necessary, we would reschedule the merits hearing thereafter.

PRESIDING	<u>Hamilton</u>				Session:	Regular
	MOTION	YES	NO	OTHER	Time of Session	<u>2:30 PM</u>
CLYBURN	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		APPROVED	<u></u>
FLEMING	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		APPROVED STC 30 DAYS	<u></u>
HAMILTON	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		ACCEPTED FOR FILING	<u></u>
HOWARD	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Absent	DENIED	<u></u>
MITCHELL	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		AMENDED	<u></u>
MOSELEY	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		TRANSFERRED	<u></u>
WRIGHT	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		SUSPENDED	<u></u>
					CANCELED	<u></u>
					SET FOR HEARING	<u></u>
					ADVISED	<u></u>
					CARRIED OVER	<u></u>
					RECORDED BY	<u>SCHMIEDING</u>

Commissioner Howard was on Family Sick Leave